

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 05-10528-RCL

DENISE M. BARRY and JANE
B. GREEN,
Plaintiffs,

v.

ROBERT J. MORAN, PAUL A.
CHRISTIAN, WILLIAM
KESSLER, WILLIAM HITCHOCK,
CITY OF BOSTON FIRE
DEPARTMENT, and JOHN
and/or JANE DOES 1-50.
Defendants.

JOINT STATEMENT OF THE PARTIES.

NOW COME the Parties to the above-entitled action and pursuant to this Honorable Court's *Notice of Scheduling Conference and Additional Matters*, make the following Joint Statement:

I. Concise summary of positions asserted:

A. Plaintiffs:

Defendants are engaging in a pattern and practice of discriminating against Plaintiff Barry on the basis of political affiliation; Ms. Barry is not politically affiliated with the Defendants and is denied pay raises and job promotions due to her in favor of persons less qualified than herself and/or with less seniority, but who are politically affiliated with those in power in the Boston Fire Department and City government. Plaintiff

Green, as Plaintiff Barry's Union Shop Steward, witnessed Defendant Moran discriminating against Plaintiff Barry on the basis that she was not politically affiliated with those persons of power and influence over the BFD. Consequently, Plaintiff Green was targeted by Defendants Moran, Christian, Hitchcock, and certain Doe Defendants, so as to deprive her of, or otherwise coerce her into not exercising, her First Amendment Rights to Freedom of Speech. Plaintiffs' causes of action under Section 1983, *inter alia*, seek to enforce constitutional rights, liberty interests, and substantive and procedural due process rights.

B. Defendants:

The Defendants deny the Plaintiffs' allegations and assert that all of their actions were in accord with the laws and constitutions of the United States and of the Commonwealth of Massachusetts, and were taken for legitimate, non-retaliatory business reasons. The City of Boston denies that any deprivation allegedly suffered by the Plaintiffs was pursuant to an unconstitutional municipal custom, policy or practice.

II. Joint Proposed Discovery Schedule:

1. The Parties will make their Automatic Disclosures pursuant to Fed.R.Civ.P. 26 by November 30, 2005.
2. The Parties will serve their written discovery requests by January 13, 2006.

3. Factual discovery will be completed by August 30, 2006.
4. Expert disclosures, if any, will be made by July 31, 2006, and expert discovery, if any, will be completed by August 30, 2006.

III. Joint Proposed Motion Schedule:

1. Rule 56 motions and Discovery motions, if any, will be filed by September 15, 2006.
2. Motions to Amend the Pleadings shall be filed by December 21, 2005.

IV. Scheduling Items upon which the Parties Differ:

The Defendants join the Plaintiff in proposing the schedule above, but note that the *Amended Complaint* names John Doe defendants and that Plaintiffs' counsel has also indicated that he may seek to amend the Complaint to add Plaintiffs and/or seek class certification. In the event that additional parties are added, or class certification is sought and granted, the Defendants would request additional time to complete discovery (to what extent is difficult to determine at this time due to the uncertainty of the scope of Plaintiffs' eventual claims).

V. Trial By Magistrate Judge:

The Parties have agreed to maintain the trial of Plaintiffs' claims with the Honorable Reginald C. Lindsey.

VI. Certification of Counsel

Counsel for the Parties herein hereby certify that each has conferred with their respective clients with a view to establishing a budget for the costs of litigation and have considered the use of alternative dispute resolution, and will separately file certifications from their clients.

Respectfully submitted,

PLAINTIFFS DENISE M. BARRY and
JANE B. GREEN

DEFENDANTS, ROBERT J. MORAN, PAUL
A. CHRISTIAN, WILLIAM KESSLER,
WILLIAM HITCHOCK, CITY OF BOSTON
FIRE DEPARTMENT

Merita A. Hopkins
Corporation Counsel

By their attorney:

By its attorneys:

s/ Thomas F. Feeney

s/ James M. Chernetsky

Thomas F. Feeney, Esq. BBO 645605
39 Sheafe Street, Suite 1
Chestnut Hill, MA 02467
(617) 277-5750

James M. Chernetsky, BBO #638152
Helen G. Litsas, BBO#644848
Assistant Corporations Counsel
City of Boston Law Department
Room 615, City Hall
Boston, MA 02201
(617) 635-4023 (Litsas)
(617) 635-4048 (Chernetsky)